REMARKS/ARGUMENTS

Applicants and their representatives hereby thank the Examiner for the opportunity provided to discuss the present application and the cited prior art (Rickard et al., U.S. Patent No. 6,016,483) in an in-person interview on April 26, 2006. Applicants further appreciate the Examiner's agreement to withdraw of the final rejection under 35 U.S.C. § 103 based on Rickard et al., due to the distinguishing features discussed between Rickard et al. and the Applicants' invention. As requested by the Examiner, in order for further consideration, Applicants submit the following formal response incorporating the substance of the interview with the Examiner (pursuant to MPEP § 713.04) on April 26, 2006.

The Examiner's interview summary also notes that claims 1-13 are pending in the application. A proposed amendment was discussed with the Examiner, with claims 1 and 8 hereby amended to reflect the proposed amendment. The amendments to claims 1 and 8 have been made to more clearly reflect Applicants' invention. Support for amended claims 1 and 8 may be found throughout the specification. Accordingly, it is submitted that no new matter has been added by the way of any amendment(s) presented.

Rejections under 35 U.S.C. § 103

On page 3 of the Office Action, the Examiner rejected claims 1-13 under 35 U.S.C. § 103(a) as being unpatentable over Rickard et al. (6,016,483).

Upon the conclusion of the aforementioned interview with the Examiner, the Examiner's §103 rejection of claims 1-13 as obvious over the sole Rickard et al. reference was withdrawn based on Applicants' remarks that the cited Rickard et al.

reference fails to teach or suggest numerous elements of claims 1-13.

CLAIM 1

Applicants noted that Rickard et al. fails to teach or suggest at least the following elements as claimed in independent claim 1:

- receiving an opening value of an underlying security;
- receiving additional quotes and orders associated with the option class during a second time period and responsively updating the opening prices prior to the opening of trading; and
- randomly terminating the second time period prior to an opening rotation period such that further additional quotes and orders are not considered in updating the opening prices.

During the interview, Applicants also noted that Rickard et al. disclose a computer-based system for determining a set of opening prices for a number of series of options traded on an options exchange and for allocating public order imbalances at the opening of trading. Specifically, Applicants discussed with the Examiner that Rickard et al. recites features teaching away from claim 1, namely:

- first and second stages are independent of one another;
- trades are made before the second stage;
- the second stage is for assigning any residual imbalance of non-executed public orders to market makers; and
- an opening price calculation that is not updated is made during the first stage based on implied volatilities of strike prices, and not based on an opening value of an underlying security.

Further, Applicants submitted that Rickard et al. fails to provide any disclosure for:

- a second time period for recalculating the expected opening price based on receiving additional quotes and orders to update the previously calculated expected opening price;
- randomly terminating the second time period (or any time period) such that further additional quotes and orders are not considered in updating the opening prices prior to the opening rotation;
- opening trading after the second time period.

As discussed with the Examiner, Applicants amended claim 1 to clarify that the further additional quotes and orders (those received after termination of the second time period) are different than the additional quotes and orders received during the second time period.

CLAIM 8

Applicants also noted that Rickard et al. fails to teach or suggest at least the following elements as claimed in independent claim 8:

- receiving an opening value of an underlying security;
- receiving additional quotes and orders associated with the option class during a second time period; and
- randomly terminating the second time period prior to an opening rotation period to open trading of the plurality of option series such that further additional quotes and orders received after termination of the second time period are not reflected in the expected opening prices.

As discussed with the Examiner, Applicants amended claims 1 and 8 to clarify that the further additional quotes and orders (those received after termination of the second time period) are different than the additional quotes and orders received during the second time period. As discussed with the Examiner and mentioned above, Rickard et al. does not teach or suggest an automated opening apparatus and method expressly or inherently having the claimed requirements of Applicants' randomized opening procedure. Applicants submit that at least these features are neither taught nor suggested by Rickard et al., and that many of the same reasons provided above with respect to claim 1 also apply to claim 8.

One advantage of the method of claims 1 and 8 discussed with the Examiner is that, by using the randomized opening procedure recited in the pending claims, the opening price is not subject to manipulation as a result of a misrepresentation of the supply, demand or underlying depth of the market. (Application as filed, Page 10, lines 6-7).

Claims 2-7, 8 and 10-13 are dependent claims. Applicants respectfully submit that these claims are allowable for the same reasons as given with regard to independent claims 1 and 8, respectively.

Conclusion

Having analyzed the rejections cited against the claims, it is urged that the present claims are in condition for allowance. A favorable reconsideration is requested.

In view of the aforesaid, it is also respectfully requested that Applicants receive an early Notice of Allowance.

Should any further minor objections arise or need to be attended to, the Examiner is invited to contact the undersigned attorney to discuss the matters in an effort to successfully complete the prosecution of this application.

Respectfully submitted,

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